

Navy) must apply for and obtain either an initial Letter of Authorization in accordance with §218.7 or a renewal under §218.8.

§218.7 Letters of Authorization.

(a) A Letter of Authorization, unless suspended or revoked, will be valid for a period of time not to exceed the period of validity of this subpart, but must be renewed annually subject to annual renewal conditions in §218.8.

(b) Each Letter of Authorization will set forth:

(1) Permissible methods of incidental taking;

(2) Means of effecting the least practicable adverse impact on the species, its habitat, and on the availability of the species for subsistence uses (i.e., mitigation); and

(3) Requirements for mitigation, monitoring and reporting.

(c) Issuance and renewal of the Letter of Authorization will be based on a determination that the total number of marine mammals taken by the activity as a whole will have no more than a negligible impact on the affected species or stock of marine mammal(s).

§218.8 Renewal of Letters of Authorization and adaptive management.

(a) A Letter of Authorization issued under §216.106 of this chapter and §218.7 for the activity identified in §218.1(c) will be renewed annually upon:

(1) Notification to NMFS that the activity described in the application submitted under §218.6 will be undertaken and that there will not be a substantial modification to the described work, mitigation or monitoring undertaken during the upcoming 12 months;

(2) Timely receipt of the monitoring reports required under §218.5(c) through (i); and

(3) A determination by NMFS that the mitigation, monitoring and reporting measures required under §218.4 and the Letter of Authorization issued under §216.106 of this chapter and §218.7, were undertaken and will be undertaken during the upcoming annual period of validity of a renewed Letter of Authorization.

(b) If a request for a renewal of a Letter of Authorization issued under §216.106 of this chapter and §218.8 indi-

cates that a substantial modification to the described work, mitigation or monitoring undertaken during the upcoming season will occur, NMFS will provide the public a period of 30 days for review and comment on the request. Review and comment on renewals of Letters of Authorization are restricted to:

(1) New cited information and data indicating that the determinations made in this document are in need of reconsideration, and

(2) Proposed changes to the mitigation and monitoring requirements contained in these regulations or in the current Letter of Authorization.

(c) A notice of issuance or denial of a renewal of a Letter of Authorization will be published in the FEDERAL REGISTER.

(d) NMFS, in response to new information and in consultation with the Navy, may modify the mitigation or monitoring measures in subsequent LOAs if doing so creates a reasonable likelihood of more effectively accomplishing the goals of mitigation and monitoring set forth in the preamble of these regulations. Below are some of the possible sources of new data that could contribute to the decision to modify the mitigation or monitoring measures:

(1) Results from the Navy's monitoring from the previous year (either from VACAPES Range Complex or other locations).

(2) Findings of the Monitoring Workshop that the Navy will convene in 2011 (§218.5(j)).

(3) Compiled results of Navy funded research and development (R&D) studies (presented pursuant to the ICMP (§218.5(d))).

(4) Results from specific stranding investigations (either from the VACAPE Range Complex Study Area or other locations, and involving coincident explosives training or not involving coincident use).

(5) Results from general marine mammal and sound research (funded by the Navy or otherwise).

(6) Any information which reveals that marine mammals may have been taken in a manner, extent or number not authorized by these regulations or subsequent Letters of Authorization.